

## **OROVILLE FACILITIES RELICENSING**

### **DRAFT INTERIM SETTLEMENT AGREEMENT FOR RIVERBEND PARK IMPROVEMENTS**

This Interim Settlement Agreement is hereby entered into among the Department of Water Resources, Feather River Recreation and Park District, Oroville Redevelopment Agency (hereinafter referred to as the "Funding Parties"), and the State Water Contractors, City of Oroville, Lake Oroville Joint Powers Authority, and American Rivers (hereinafter referred to as the "Other Parties")(collectively the Funding Parties and Other Parties are hereinafter referred to as the "Parties"). Other Oroville Facilities Relicensing Participants have signed this Interim Settlement Agreement as a statement of support and commitment indicating their support of the Interim Settlement Agreement and development of Riverbend Park.

WHEREAS, the existing 50 year license issued by the Federal Energy Regulatory Commission ("FERC") to the California Department of Water Resources ("DWR") for the operation of the Oroville Facilities ("FERC Project No. 2100") will expire on January 31, 2007; and

WHEREAS, FERC approved DWR's request to use an alternative license procedure ("ALP") for the relicensing of the Oroville Facilities; and

WHEREAS, the ALP is intended to facilitate development of proposed license terms and conditions, and depends upon collaboration among participants to gain timely consensus on matters addressed in FERC's relicensing of FERC Project No. 2100; and

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WHEREAS, prior to 2005 ALP participants intend to collaboratively produce a Comprehensive Settlement Agreement ("Settlement Agreement") to be submitted with DWR's application for a new license that will document their consensus on proposed license terms and conditions for operation of FERC Project No. 2100; and

WHEREAS, Riverbend Park is a recreation facility owned and operated by the Feather River Recreation and Park District ("FRRPD") which, along with many members of the local community, has proposed that DWR, as licensee of FERC Project No. 2100, agree to fund development of certain improvements to Riverbend Park described herein ("Riverbend Park Improvements"); even though Riverbend Park is outside of the FERC Project No. 2100 boundaries; and

WHEREAS, pre-2007 implementation of Riverbend Park Improvements will encourage local community support of the collaborative process. The parties of this Interim Settlement Agreement intend that further consideration of additional Riverbend Park improvements will be undertaken in a manner that accommodates the Collaborative's primary purpose, which is timely negotiation of a Settlement Agreement and other actions essential to the timely filing of the new license application; and

WHEREAS, DWR is willing to commit pre-2007 implementation of recreational improvements provided DWR obtains credit and recognition of that effort and investment as part of the relicensing of FERC Project No. 2100; and

WHEREAS, funding and implementation of Riverbend Park Improvements by DWR prior to expiration of the current FERC license would demonstrate good faith and encourage and enhance local community support for the collaborative process; and

WHEREAS, prior to execution of this Agreement, DWR has already begun funding feasibility and environmental review work for the Riverbend Park Improvements; and

WHEREAS, by Minute Order 02-003 on January 8, 2002, the Butte County Board of Supervisors approved the allocation (pass through) of \$188,854.20 of Butte County's Per Capita Grant under the Safe Neighborhood Parks, Clean Water, Clean Air and Coastal Protection Bond Act of 2000 (Proposition 12) to FRRPD. Of this amount, FRRPD has agreed to allocate \$100,000 to Riverbend Park improvements, as provided in this Interim Settlement Agreement.

NOW, THEREFORE THE PARTIES AGREE AS FOLLOWS:

### **GENERAL PROVISIONS**

1. DWR agrees to fund the Riverbend Park Improvements described in detail in Appendix A attached hereto, subject to the terms and conditions contained in this Interim Settlement Agreement.

2. The signatories to this Interim Settlement Agreement (Parties) agree that DWR's pre-2007 funding of Riverbend Park Improvements may be included as part of its license application and will be acknowledged as part of recreation project commitment in the Settlement Agreement and shall partially offset the need for DWR's development and funding of other comparable recreation projects in its application for a new license.

3. Concurrent with execution of this Interim Settlement Agreement, DWR shall execute a separate, detailed agreement ("Riverbend Implementing Agreement") with FRRPD in the form attached hereto as Exhibit "1" and incorporated herein by reference. Among other things, the Riverbend

Implementing Agreement sets forth the disbursement process for DWR's funds and the responsibilities of both Parties providing funding or in-kind services between DWR and FRRPD for CEQA review, permitting, design, and construction of Riverbend Park Improvements.

4. Riverbend Park Improvements shall be designed, constructed, operated and maintained in a way that:
  - a. such improvements are able to withstand periodic flooding; and
  - b. is consistent with the purposes of the Oroville Facilities; and
  - c. is consistent with other elements of resource plans being developed for relicensing of FERC Project No. 2100; and
  - d. complies with applicable laws and regulations.

5. To the extent that Riverbend Park Improvements are found to be inconsistent with any of the above conditions, the Parties shall meet and confer to discuss the inconsistencies, after which, DWR and FRRPD will work to modify such improvements to substantially eliminate the inconsistency.

6. The cost of the Initial Riverbend Park Improvements, identified as Initial Improvements in Appendix A, has been estimated at \$2.5 million. FRRPD shall contribute \$200,000 and Oroville Redevelopment Agency shall contribute \$100,000 and DWR shall contribute the remaining costs for consultant services and capital cost funding of Initial Riverbend Park Improvements as described in further detail in Appendix A; provided, however, DWR's contribution shall not under any circumstances exceed \$2.2 million. As an offset to this \$300,000 local contribution, FRRPD and Oroville Redevelopment Agency shall receive credit for their expenditures for Riverbend Park Improvements made since July 1, 2000 (prior to execution of this Interim Settlement Agreement). Development of Initial Riverbend Park Improvements is subject to the following, each of which is addressed in more detail in the Riverbend Implementing Agreement.

7. Up to a maximum of \$360,000 of the DWR \$2.2 million contribution can be used for consultant services relating to Riverbend Park Improvements feasibility work, including: preliminary engineering, environmental review, flood studies and grant preparation. All Riverbend Park Improvements feasibility costs above \$360,000 will come out of the \$300,000 local contribution. As an offset to this \$360,000 amount, DWR shall receive credit for its expenditures for feasibility work for the Riverbend Park Improvements that has occurred prior to execution of this Interim Settlement Agreement. The Riverbend Implementing Agreement shall have "Review Points" for modification of the Initial Riverbend Park Improvements as they proceed through CEQA review, permitting, and design. If any feature of the Initial Riverbend Park Improvements cannot be implemented for environmental reasons and all other elements of the Initial Riverbend Park Improvements have been constructed, FRRPD and DWR shall meet and confer, and after consultation with the Other Parties, determine whether to allocate any remaining portion of the \$2.2 million for implementation of all or a portion of the Supplemental Improvements identified in Appendix A; provided that such substituted improvements are otherwise consistent with the terms of this Interim Settlement Agreement.

8. FRRPD shall demonstrate that construction cost estimates for the Initial Riverbend Park Improvements are reasonable and that other sources of capital cost funding are firmly committed prior to DWR's release of any construction funds.

9. No operations and maintenance ("O&M") or construction funds will be made available by DWR for any recreation feature unless the project is in compliance with CEQA and all applicable permit requirements. The Parties acknowledge that FRRPD and DWR may include as part of their CEQA compliance, a Statement of Overriding Considerations.

10. All construction contracts related to the Riverbend Park Improvements contemplated under this Interim Settlement Agreement shall be awarded by FRRPD by January 31, 2007; however, the Parties are committed to commencing construction as soon as feasible. DWR shall not be responsible for any FRRPD direct or indirect costs after January 31, 2007, except for costs or expenses arising out of the awarded construction contracts referred to in this paragraph, and subject to the funding and liability limitations established in this Interim Settlement Agreement and the attached Riverbend Implementing Agreement.

11. DWR shall contribute 100 percent of the actual O&M cost for Riverbend Park Improvements up to a maximum of \$160,000 per year. Actual annual O&M costs above \$160,000 and up to \$240,000 shall be shared equally between DWR and FRRPD. FRRPD shall pay all annual O&M costs that exceed \$240,000. FRRPD shall receive credit for its share of O&M costs based on its provision of in-kind services, including services provided by other contributing agencies, organizations, and volunteers, as well as administrative services performed by FRRPD. DWR's total O&M contribution shall not exceed \$800,000 prior to January 31, 2007. DWR is not obligated under this Interim Settlement Agreement to contribute funds for O&M costs after January 1, 2007. In the event that a Settlement Agreement is not executed on or before January 31, 2007, and at the discretion of DWR, DWR and FRRPD agree to negotiate in good faith for a DWR contribution to partially fund O&M between February 1, 2007, and the execution date of such Settlement Agreement.

12. Pursuant to CEQA Guidelines Section 15051(d), the Parties agree that FRRPD shall serve as CEQA lead agency as it will be the public agency primarily carrying out the Riverbend Park Improvements.

13. Except as expressly provided in this Interim Settlement Agreement, in the Riverbend Implementing Agreement or as required by law, DWR and all

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other Parties shall have no obligation to reimburse or otherwise pay any other party for its assistance or cooperation in implementation of Riverbend Park Improvements.

14. This Interim Settlement Agreement shall be in effect until the execution date of a Settlement Agreement negotiated through the collaborative process or until a decision is made by DWR that no Settlement Agreement can and will be reached.

15. Funding parties shall be liable only to the extent of their respective financial commitments under this Interim Settlement Agreement. The Other Parties will not be liable for damages or equitable relief for any alleged breach of this Interim Settlement Agreement. The Parties will use voluntary procedures to resolve any dispute, on the understanding that satisfactory performance is critical to the Settlement Agreement itself.

THIS AGREEMENT IS HEREBY ENTERED INTO BY THE STATE OF CALIFORNIA, ACTING BY AND THROUGH THE DEPARTMENT OF WATER RESOURCES AND THE PARTIES NAMED BELOW:

FUNDING PARTIES:

_____	Sonny Brandt
Deputy Director	Chairman of the Board
Department of Water Resources	Feather River Recreation & Park District

\_\_\_\_\_  
Alvin Koslin  
Oroville Redevelopment Agency

OTHER PARTIES:

<u>Gordon Andoe</u>	<u>Gordon Andoe</u>
<u>Mayor</u>	<u>Chairperson</u>
<u>City of Oroville</u>	<u>Lake Oroville Joint Powers Authority</u>

<u>John Coburn</u>	
<u>General Manager</u>	<u>American Rivers</u>
<u>State Water Contractors, Inc.</u>	



**STATEMENT OF SUPPORT AND COMMITMENT**

The following Participants in the DWR Collaborative process for the relicensing of the Oroville Facilities (Project No. 2100) and members of the local community, by signature below, indicate support for this Interim Settlement Agreement and development of Riverbend Park. However, signatures are not intended to represent any legally binding commitment on individuals or on the organizations they may represent.

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## APPENDIX A

### RIVERBEND PARK IMPROVEMENTS

The Riverbend Park Corridor Project is located west of Highway 70, from the Feather River Bridge, south to Highway 162 (Randy Jennings Memorial Bridge), on the east bank and reach of the Feather River that is in the jurisdiction of the City of Oroville and the County of Butte.

#### Initial Improvements

1. **Utilities to the site** The Feather River Recreation and Park District proposes to drill two water wells on the site to provide for irrigation water and to extend public water and sewer lines into the park from the foot of Montgomery Street for potable water and sanitation needs. Pacific Gas and Electric can provide electric service to the site.
2. **a) Parking facilities** This item includes appropriately sized and located parking to serve both day use and bicycle path users, with needed signage and striping.  
**b) Public restrooms** Three public restrooms are included plus two stubbed lines for future use. The restrooms need to be designed to be flood proof and with a force main return to the city sewer system.  
**c) Day use facilities (picnic / group facilities)** The planned facilities consist of approximately forty family picnic sites, five four-table group sites and two fifty-person group sites. Sites include A.D.A. compliant concrete pads, sheds, shelters, trash receptacles, barbecues, intermittent drinking fountains, and appropriate recreation improvements such as a tot lot, horseshoe pits, lighting and etc.  
**d) Revegetation / Irrigation** This work is confined to Riverbend Park Corridor and involves planting the barren earthen and rock landscape with both sections of native plantings, turf and trees. Appropriate soil preparation, water supply and irrigation are included.
3. **Temporary visitor facility and allied infrastructure** This project involves placing a modular visitor / tourism building at the junctions of Riverbend Park Corridor with the Highway 70 interchange. It is proposed as a partnership project with the park district and the Chamber of Commerce. Site improvements will be interim in nature, and the building relocatable since the site is a great candidate location for a future Visitor / Tourism / Recreation / Natural History Center for the entire Oroville Area.

**4. Recontouring / restoration / revegetation** This project is located at the southern edge of Riverbend Park Corridor and extends southerly into the area leased from the State Wildlife Conservation Board. The work will be confined to the severely damaged areas by a previous rock quarry (Lone Star Cement), litter and debris, dumping, and indiscriminate vehicle activity. The area will be contoured and the roadway regraded and confined. Care will be taken not to affect existing trees and significant native vegetation. Restoration revegetation will utilize appropriate native species. Consultation regarding an ongoing vegetative maintenance program will be included in order to assure long-term health of this natural area.

### **Supplemental Improvements**

**1. Riverbend Park Corridor bicycle trail improvement** This segment of work is to connect Riverbend Park Corridor with Highway 162 utilizing the historic railroad alignment and existing ramps up to the 162 roadway. Bicycle racks, park benches and interpretive signage are included at appropriate locations along the way.

**2. Existing boat ramp renovation and installation of additional amenities** This project consists of improving the existing boat ramp, constructing a new four-unit masonry block, unisex restroom / comfort station with lift station, parking and other amenities.

**3. Permanent Visitor / Tourism / Recreation / Natural History Center** The temporary modular building will be replaced with a permanent structure at the junctions of Riverbend Park Corridor with the Highway 70 interchange. It is proposed as a partnership project with the park district and may include other appropriate entities.

***COST ESTIMATE SUMMARY FOR RIVERBEND PARK IMPROVEMENTS***

**INITIAL IMPROVEMENTS**

Infrastructure: on / off site

Utilities, two roads, four parking lots \$785,000

Day Use items

Picnic areas, paths, landscape, restrooms, bike trail repair  
and realignment, etc. 970,000

**Estimated Construction Cost \$1,755,000**

Environmental Documentation 180,000

Architecture and Engineering 140,000

Administration Overhead 90,000

Contingency Overhead 175,000

**(subtotal) Park Project \$2,340,000**

Temporary Visitor /Tourism / Recreation / Natural History Center \$100,000

Recontouring / Restoration / Revegetation 60,000

**Total Base Project Cost \$2,500,000**

**PROPOSED COST CONTRIBUTIONS**

Department of Water Resources 2,200,000

Feather River Recreation and Park District 200,000

Oroville Redevelopment Agency 100,000

**Total Proposed Contributions \$2,500,000**